

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
IP-Enabled Services)	WC Docket No. 04-36
)	
E911 Requirements for IP-Enabled Service Providers)	WC Docket No. 05-196
)	

COMMENTS

BellSouth Corporation, on behalf of itself and its wholly owned subsidiaries (“BellSouth”), hereby submits the following comments in response to the *Notice of Proposed Rulemaking* in the above referenced proceedings.¹

INTRODUCTION AND BACKGROUND

In its June 3, 2005 *Order*, the Commission took the first step to ensure that consumers using interconnected VoIP services have access to the same E911 service that wireline and wireless telephone users enjoy. The Commission adopted rules requiring VoIP providers that are interconnected with the public switched telephone network (“PSTN”) to provide E911 service to their customers at the customers’ registered locations.

In adopting these rules, the Commission acted consistent with its obligation to promote an effective nationwide E911 emergency access system by balancing the needs of both the consuming public and the public safety community as well as the technological limitations of the interconnected VoIP providers. Within 120 days of the effective date of the order, VoIP

¹ *IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, WC Docket Nos. 04-36 & 05-196, *First Report and Order and Notice of Proposed Rulemaking*, FCC 05-116 (rel. June 3, 2005) (“*Notice*” or “*Order*”).

providers will be obligated to transmit 911 dialed calls as well as a call back number and the caller's registered location for each call to the appropriate PSAP. The Commission recognized that, given current technical limitations, VoIP providers often could not automatically determine location information, and that VoIP providers would be largely dependent upon customer-provided input for such information.

The instant rulemaking is aimed at developing an advanced E911 solution. According to the *Notice*, the advanced solution would focus on portable interconnected VoIP services with the goal of identifying a method by which VoIP providers can determine a user's location without assistance from the end user.

DISCUSSION

In considering the issues in this proceeding, the Commission should be mindful of the important role it plays in the E911 arena – namely to foster cooperation among the many different parties that are involved.² The Commission's role should not be to micromanage the industry but rather to establish policy and set goals and objectives for the industry to meet. The Commission should avoid, as it did with respect to wireless E911, dictating solutions that are best evaluated by the industry members that must implement them.³ Consistent with this approach, the remainder of BellSouth's comments will discuss the questions posed in the *Notice*.

² See, e.g., *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Petition of City of Richardson, Texas*, CC Docket No 94-102, Order, 16 FCC Rcd 18982, 18985, ¶ 11 (2001).

³ In the wireless E911 proceeding, the Commission recognized that the most productive course was to let the industry members select the solutions unless disputes among parties became intractable or other conditions made Commission intervention necessary to achieve implementation of its wireless E911 policy. *Id.* at 18988, ¶ 19.

In the *Notice*, the Commission observes that VoIP, as a new technology, presents innovative businesses with new opportunities, but with these opportunities comes the responsibility to ensure that the public safety is protected.⁴ Although BellSouth shares the Commission's concern for protecting the public safety, the Commission should not presume that all VoIP services will or need to serve the marketplace in the same way or that public safety needs are identical for all service applications. The Commission should not prejudge how the market will develop, but rather it should acknowledge that the market could evolve in such a way that a variety of services will evolve to meet diverse market demand.

The Commission's rules should accommodate the market dynamics and permit VoIP providers to offer services that have different characteristics and capabilities. The Commission seeks comments on whether stronger Commission action is needed with respect to customer notification through the imposition of additional or more stringent customer notification requirements.⁵ A key element to achieve an accommodation with the evolving marketplace is continuing full disclosure by the VoIP provider to its customer as to the service, its capabilities and options and alternatives that are available. Ultimately, a fully informed consumer best protects the public safety. The effectiveness of the customer notification requirements recently adopted by the Commission⁶ should therefore be monitored in the months to come in order to determine whether they are adequate in the context of industry-developed standards.

E911 access is an important public safety component for any VoIP service that constitutes a user's primary voice communications capability. As the *Notice* points out, one

⁴ *Notice*, ¶ 56.

⁵ *Id. Order*, ¶ 49, n.158; *Notice*, ¶ 59.

⁶ *Id. Order*, App. B (to be codified at 47 C.F.R. § 9.5(e)).

capability of such service that may be of central benefit to the consumer is that the service can be portable, without geographic limitation. Currently, for portable service, generally known within the industry as nomadic service, user location information that would be passed in connection with a 911 communication requires end user cooperation and input. In this proceeding the Commission seeks comment on how best it can facilitate the development and implementation of technologies and solutions that would automatically identify the location of a VoIP user.⁷ The Commission inquires as to the most productive role it can play in the adoption of one or more of the possible technologies or solutions.

The potential for geographic VoIP service portability is an example of how the Commission should allow VoIP providers to have the flexibility to develop different services that meet different market needs. For example, consumer expectations could be quite different where VoIP services are used in primary locations as compared to a businessman who travels and connects to his VoIP service through a hotel broadband connection. With respect to the former, the VoIP service may be the only voice communication service that is available to the consumer. In the case of the traveling businessman, the VoIP service may be a secondary voice communications capability that does not displace the hotel wireline capability.⁸ In these scenarios, the consumer may have different expectations and needs with respect to E911 access. The primary role for the Commission is to establish the objectives or goals that it determines

⁷ *Id. Notice*, ¶ 57.

⁸ Letter from Bennett L. Ross, General Counsel-D.C., BellSouth D.C., Inc. to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36 at 2 (filed May 12, 2005).

fulfill its responsibility to protect the public safety.⁹ As it did with respect to the wireless 911 proceeding, the Commission should not attempt to pick the technology or prescribe the solution that the industry should follow. As the Commission recognizes, there are many options and alternatives, and the expertise for making the technical and economic decisions to meet the Commission's objectives lies within the industry. The Commission should harness this expertise and rely on the industry's ability to establish standards around which participants can implement technologies of their choosing that meet Commission objectives or goals.

As the Commission is well aware, the industry has been hard at work to develop E911 standards.¹⁰ Indeed, the National Emergency Number Association ("NENA") has been engaged in the development of immediate and long-term solutions for IP-based voice communications. The immediate solution would establish the standards that would enable VoIP providers to provide their users with an E911 capability, including the ability of VoIP providers to identify the users' location without user input. The immediate solution that NENA is finalizing, known as I2, would be implemented within the existing E911 system. In addition, the I2 solution provides a pathway to a long-term, IP-based 911 system that is currently being developed under the auspices of NENA.

The Commission should have confidence in the work that the industry is doing. There is broad participation in the NENA standard development process. Included in the process are

⁹ For example, the Commission could determine that for a VoIP service that provides a primary voice communications capability and that is fully nomadic, the service must provide users with access to E911. In providing access to E911, the Commission could also require the VoIP provider to implement a technology that automatically identifies the location of the end user.

¹⁰ *Order*, ¶ 21.

VoIP providers, other members of the telecommunications industry such as local carriers, state agencies and commissions and public safety officials. Equally important, the work on developing the I2 standard is nearly complete, as the industry, through NENA, has been working nearly eighteen months on its development. The NENA standards will be ready long before the Commission could independently determine appropriate standards. For this reason alone, the Commission should rely on and defer to the industry effort in standards development.

In this proceeding, the Commission's goal is to identify the most productive course of action. Letting the industry complete its standards work is the way in which the Commission can achieve its objectives in the most expeditious manner. The I2 standard examines the role of all the industry members: VoIP provider, Internet access provider, local exchange carrier and PSAP. It will identify each participant's role and responsibility and thereby establish the quickest means to enable VoIP providers to offer a more robust E911 capability.

Commission support of the industry effort not only furthers its own E911 objectives but also will promote its general preference for market-based solutions. VoIP technology is new and service offerings are in their infancy. VoIP providers should have the flexibility to adopt a solution that best fits their business plans while meeting these industry standards. Competition will drive the industry participants to adopt solutions that meet market needs and differentiate a VoIP provider from its competitors. Permitting the market to work will have the beneficial result that VoIP providers will select cost effective technologies to provide E911 capabilities as well as other feature rich capabilities.

The Commission also requests comments as to whether it should extend the E911 obligations to other VoIP services that do not fall within the definition of interconnected VoIP

service.¹¹ The Commission provides examples of different configurations, such as a VoIP service that only receives calls from the public switched network but does not originate calls to the public switched network. As a general principle, if the user of a VoIP service has reasonable expectation that he or she can originate an emergency (911) call, then the service should have that capability. The likelihood is that the market will drive providers to offer the capability where appropriate. In other words, there may be market instances where 911 capabilities are not demanded. For example, a call center that handles catalog orders may only require service that terminates at the call center and that does not provide call attendants with the ability to originate calls. Extending the 911 obligations to this type of configuration would be unnecessary.

As discussed above, the Commission should leave room for VoIP providers to develop a wide array of services that are responsive to market demand. If a VoIP provider markets its service as a voice communications service that has the same capabilities as existing local telecommunications services, the VoIP service should be E911 capable. The VoIP provider, however, should also be able to provide specialized services that are not intended as all inclusive voice communications packages without imposition of unnecessary regulation.

The Commission solicits comment on whether it should adopt performance standards that would require VoIP providers to update their records within a specified period of time when an end user updates his registered location.¹² It is unnecessary for the Commission to do so. End users should be advised by their service provider of the time that it takes to make a change in registered location effective and the impact that making a change has on 911 capabilities. The

¹¹ Notice, ¶ 58.

¹² *Id.* ¶ 59.

processes that a VoIP provider implements to handle a customer change in his or her registered location is a characteristic of service and represents a competitive element that figures into the user's calculus when he makes a purchase decision. The Commission should not attempt to homogenize all VoIP services. Instead, the Commission should continue to ensure that the users are given complete information regarding the 911 capability of the service they purchase.¹³

As VoIP service providers implement solutions that automatically identify a user's location, the Commission recognizes that VoIP technology might result in a consumer using his VoIP service in a location for which there is no associated street address. The Commission asks how emergency calls should be handled in such instances.¹⁴ The current E911 system requires a street address format. Thus, if an emergency call originates from a location for which there is no street address, the call will have to be handled as a non-compliant call and sent to an administrative number of the PSAP.¹⁵

The Commission asks whether additional reporting requirements should be adopted so that it can follow the implementation of the rules that it adopts.¹⁶ As the Commission is aware, each regulatory requirement imposes a cost, associated with compliance, on the service provider.

¹³ Another factor that counsels against the establishment of a Commission mandated performance standard is that the I2 standard that is nearly completed makes substantial strides toward the goals that the Commission has identified.

¹⁴ Notice, ¶ 59.

¹⁵ A related question asked by the Commission is how the use of Wi-Fi or WiMax should impact the applicability of the regulations the Commission adopts. *Id.* Where Wi-Fi or WiMax are used for the broadband Internet connection, the location of the access point is the only address that could be provided for such locations. These technologies provide another example of where the Commission should not attempt to impose regulatory requirements that extend beyond the technology. The public safety would be better served through full disclosure.

¹⁶ Notice, ¶ 60.

Such costs ultimately are passed on to the consumer in the prices that they pay for the service. Accordingly, the Commission should eschew imposing unnecessary regulatory costs. The Commission has just adopted the current compliance reporting requirement. It should gain experience under that requirement before it considers creating additional obligations. At this point in time, the Commission has no information or experience that could possibly support taking the extraordinary action of modifying compliance reporting.

The role states should play in implementing the new VoIP requirements is a challenging area. The interstate nature of VoIP services and the need for uniformity clearly establishes that the Commission has the paramount role in establishing the requirements. Likewise, the Commission must assume the primary responsibility for seeing that its regulations are implemented. The states should focus on funding. PSAPs will have to be in a position to be able to upgrade their equipment as existing systems are pushed to their limit and new technologies, such as VoIP, demand that alternative approaches to E911 be considered. The states must ensure that PSAPs are in a position to change with technology and to continue to deliver emergency services to consumers.

As the Commission requires VoIP service providers to provide their customers with access to E911 capabilities, it is important for the Commission to clarify that providers of VoIP service may provide customer name and address information in connection with the provision of its E911 capabilities. Nothing with regard to a consumer's expectations of privacy with regard to its information would prevent a VoIP provider from disclosing the consumer's name and location in connection with E911 calls. Such a clarification would quiet any uncertainty that exists.

CONCLUSION

The industry continues its work to establish standards concerning the delivery of VoIP 911 services. BellSouth is actively engaged in this effort and believes that it will provide the solutions to providing the type of E911 capabilities that the Commission believes to be essential to public safety. Accordingly, BellSouth urges the Commission to support the industry efforts and rely on industry expertise to develop the appropriate standards.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that I have this 15th day of August 2005 served the parties of record to this action with a copy of the foregoing **BELLSOUTH COMMENTS** by electronic filing and electronic mail to the parties listed below.

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